

From: Sinks, Tom [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=001007B7D256453A8A19B91DF704E22C-SINKS, TOM]
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News clips from Friday

REGULATIONS: EPA sends 'secret science' plan to White House Greenwire

EPA yesterday sent a proposed rule to the White House Office of Management and Budget with the announced purpose of "strengthening transparency and validity in regulatory science," according to the RegInfo.gov site.

The proposal appears to be a concrete step toward restricting the types of scientific research that EPA officials can use in crafting new regulations. The proposal was not listed on EPA's latest semiannual regulatory agenda, and agency press aides did not respond to an emailed request for more information this morning.

"We need to make sure their [scientists'] data and methodology are published as part of the record," EPA Administrator Scott Pruitt told *The Daily Caller*, a conservative news outlet last month, in an article that the agency later distributed as a news release. "Otherwise, it's not transparent. It's not objectively measured, and that's important."

House Science, Space and Technology Chairman Lamar Smith (R-Texas) has repeatedly introduced "secret science reform" legislation that would bar EPA from using scientific data that are not "transparent or reproducible."

Smith has promoted the bill as a good government measure. Critics argue, however, that it's intended to prevent the agency from using the best available science and could have steep implementation costs (*E&E News PM*, April 13, 2017).

While the House has passed various versions of the legislation several times, Smith has been unable to get the bill through the Senate. Newly released emails show that Pruitt and Smith met in January to discuss the issue. But the emails, obtained by the Union of Concerned Scientists, an advocacy group opposed to Smith's legislation, also show that a top political appointee raised concerns about the potential impact on pesticide registration and on chemical regulation under the Toxic Substances Control Act (*Climatewire*, April 20).

OMB's Office of Information and Regulatory Affairs is now supposed to complete a standard interagency review of the proposed rule within 90 days but can seek more time if needed.

At a hearing last week, Sen. Maggie Hassan (D-N.H.) had pressed OIRA Administrator Neomi Rao for her stance on the issue (*E&E Daily*, April 13). Asked by Hassan whether she would "generally support agencies changing their procedures in ways that prevent them from using the best available evidence in making these decisions," Rao responded, "No, I would not."

If Rao "stays true" to that commitment, then "secret science has no business seeing the light of day," Yogin Kothari, senior Washington representative for the Union of Concerned Scientists, said in an interview today.

Pruitt Moving Again to Change the Way EPA Uses Science (1) Bloomberg Environment & Energy Report

EPA Administrator Scott Pruitt is taking another step toward changing how the agency uses science.

The White House Office of Management and Budget is reviewing a proposal that aims to strengthen the "transparency and validity" of the science the Environmental Protection Agency uses to support its regulatory decisions, according to the office's website. OMB's review, typically one of the final steps before a proposal is released for public review, started April 19.

There are no details on what's included in the proposal, but Pruitt told Bloomberg News in March that the EPA should rely on science that is "very objective, very transparent, and very open." He raised concern about third-party research where the underlying data isn't public.

"That's not right," Pruitt said in March. "The methodology and data need to be a part of the official record—the rulemaking—so that you and others can look at it and say, 'Was it wisely done?'"

Researchers and environmental advocates told Bloomberg Environment that such a policy could severely limit the data the agency considers when it regulates everything from drinking water and air quality to pesticides. Some EPA staff agree: The agency in 2017 told the Congressional Budget Office that similar open data requirements would limit usable studies by 95 percent.

"The policy is still being developed," EPA spokesperson Liz Bowman said in an April 20 statement emailed to Bloomberg Environment. "It's important to recognize that Administrator Pruitt believes all Americans deserve transparency, with regard to the science and data that's underpinning regulatory decisions being made by this Agency."

Pruitt's goal is similar to that in legislation ([H.R. 1430](#)) that House Science and Technology Committee Chairman Lamar Smith (R-Texas) introduced, which would require the EPA to base its regulatory decisions on data that's publicly available and substantially reproducible.

Last year, Pruitt barred scientists who receive EPA grants from serving on agency advisory panels, citing conflicts of interest. That policy affected many members of the EPA's advisory panels, including a panel that reviews the science backing national air quality standards, who either left or had to relinquish their grants.

Emails between EPA officials ... Politico's Morning Energy

Emails between EPA officials obtained by the Union of Concerned Scientists show that Nancy Beck, the top political official in the agency's chemicals office, voiced concerns after she received a draft of the not-yet-released policy on Jan. 31. The directive in question has origins in legislation introduced by Rep. [Lamar Smith](#) during the Obama administration, but its requirements would exclude a great deal of data about pesticides and toxic chemicals that Beck's office considers when determining whether a substance is safe or must be restricted. "These data will be extremely valuable, extremely high quality, and NOT published," Beck wrote in an email to an official in EPA's office of research and development. "The directive needs to be revised."

EPA Smith pitched Pruitt on 'secret science.' Now it's happening [Climatewire](#)

EPA coordinated with House Republicans about their plans to restrict the science used in crafting regulations, newly released emails show.

In early January, EPA chief Scott Pruitt met with Rep. Lamar Smith (R-Texas), chairman of the House Science, Space and Technology Committee, to discuss one of Smith's pet projects — overhauling how EPA uses science. Smith hasn't been able to get legislation to do so through Congress, so he pitched Pruitt to do so internally, according to emails obtained through a Freedom of Information Act request. The emails were obtained by the Union of Concerned Scientists and shared with E&E News.

In March, Pruitt announced that he would follow through. He said EPA plans to require that data and methodology from studies used to craft regulations be made public ([Climatewire](#), March 16). The topic has long been contentious. Smith and others describe the effort as a way to ensure science used to craft regulations can be properly scrutinized. Critics have said it is an effort to limit air pollution research and other studies that have been cited as reasons for regulations.

EPA has said little about its plans to make science more transparent, other than Pruitt's brief interview with a conservative news outlet to say the plan was coming at some point.

The new emails reveal how Pruitt's staffers have worked behind the scenes with Smith's office.

On Jan. 16, a few days after Pruitt met with Smith at EPA headquarters, a Smith staffer followed up with Pruitt's shop.

"It was great to see you last week and appreciate the Administrator's time. Chairman Smith is very keen for our staff to get together to discuss further transparent science-based regulations at the EPA," Smith's aide Joe Brazauskas wrote to EPA congressional affairs staffer Aaron Ringel. "We can meet at your earliest convenience with the appropriate EPA staff to discuss this matter further."

Within an hour of receiving Brazauskas' email, Ringel circulated the message to colleagues at EPA.

"All, see below follow up from Chairman Smith's meeting with the administrator," he wrote. "Want to check on who would be the most appropriate [for] them to speak to. In short, this is in regards to his pitch that EPA internally implement the HONEST Act (no regulation can go into effect unless the scientific data is publicly available for review)."

One of the aides copied on Ringel's email was Richard Yamada, the deputy assistant administrator of EPA's Office of Research and Development. Yamada previously worked for years on the Republican staff of the House Science Committee led by Smith.

The emails also show that EPA staffers wanted to have the program rolled out by the end of February.

Brittany Bolen, who works in EPA's policy office, sent an email dated Feb. 12 saying that Pruitt's chief of staff Ryan Jackson "asked to have this rolled out by the end of the month."

Timing for the rollout of the policy is still unclear.

EPA spokeswoman Liz Bowman said yesterday, "These discussions are part of the deliberative process; the policy is still being developed."

The Union of Concerned Scientists said the emails show the plan was crafted by political staff with little input from scientists. They also show that EPA's political appointees are mostly concerned about industry, rather than environmental or health protections, said USC spokesman Yogin Kothari.

"This idea to restrict the use of science at EPA was hatched solely and worked on almost exclusively by political appointees who are doing everything they can to ensure that independent science doesn't get in the way of policy decisions at the agency," he said. "It's an effort to stack the deck in favor of industry that EPA is supposed to regulate."

'This directive needs to be revised'

The emails also reveal that an EPA political appointee — a former chemical industry executive — raised concerns about the science overhaul.

Nancy Beck, deputy assistant administrator of EPA's chemicals office, raised pointed concerns about what a secret science policy would mean for both pesticide registration and for chemical companies and regulating chemicals under the Toxic Substances Control Act (TSCA).

In an email sent on Jan. 31, Beck warned Yamada; Erik Baptist, EPA's senior deputy general counsel; and Justin Schwab, deputy general counsel, that requiring underlying data to be public would affect pesticide registrations and TSCA implementation.

"This directive needs to be revised. Without change it will jeopardize our entire pesticide registration/re-registration review process and likely all TSCA risk evaluations," she wrote. "Let me know what more you may need from me to facilitate a change."

Beck noted that under EPA regulations, pesticide registration requires companies to submit studies that include a "huge amount of data" and cost the companies millions of dollars to conduct. "Guideline studies of this type are never put in journal publications — there is no audience for them, thus in IARC's eyes they are not published," she wrote.

The World Health Organization's International Agency for Research on Cancer, or IARC, develops an international database of chemicals that could potentially cause cancer. Beck notes that most of the data in this process are considered confidential business information, but the "CBI" tag can be waived to make the data available in many instances.

"Making data available is very different than requiring a publication requirement. Such a requirement would be incredibly burdensome, not practical and you would need to create a whole new arm of the publishing industry to publish these types of studies that nobody is interested in," she wrote.

Beck added that there would be a similar problem under TSCA, where data for many existing chemicals aren't published because there is "no incentive for anyone, anywhere to publish them."

"Yes, thanks this is helpful — didn't know about the intricacies of CBI — ok, we will need to thread this one real tight! Thanks Nancy!" Yamada wrote in response to Beck's warning.

Richard Denison, a senior scientist at the Environmental Defense Fund, noted that EPA staff and members of Congress had previously objected to Smith's "Honest and Open New EPA Science Treatment Act" — the basis for the potential EPA policy — for the data collection burden it would put on researchers, who would have to go back and identify which data could be made public.

Critics also warned at the time that the impact would be to significantly reduce the number of studies that could be used to develop research, and many suspected this was the real purpose of the bill.

"What Nancy Beck is ironically pointing to is the same set of issues would fall on the industry, because it is not only whether the information would be made public or not, it's the cost and burden associated with doing so," Denison said.

EPA spokeswoman Bowman did not comment on whether EPA planned to follow Beck's suggestion to revise its proposal. "It's important to understand, however, that any standards for protecting CBI would be the same for all stakeholders," she said.

At least one "secret science" policy proponent said he was open to requiring researchers and companies to make data available when they are requested by "legitimate researchers" rather than publishing all underlying data.

"This data has to be somewhere, and if someone needs to see it then arrangements have to be made," said Steve Milloy, former EPA transition team member. "You can't attack this stuff with a broad brush."

In another email from March, months after the process had started, Beck found a passage from documents the agency's pesticide program released in December 2016 saying EPA "does not believe that it is appropriate to refuse to consider published studies in the absence of the underlying data."

The document Beck referred to also said, "The EPA frequently relies on peer reviewed studies in the public literature across agency programs without possessing underlying data and the federal courts have made clear that the EPA is not required to obtain or analyze the raw data in order to rely on such studies."

Beck wrote in the email, "I'm sharing for awareness, particularly regarding court cases that are cited."

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